

## **MINUTES**

### **PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, OCTOBER 20, 2005, 10:00 A.M. CITY HALL 8<sup>TH</sup> FLOOR – COMMISSION CONFERENCE ROOM**

#### **Members Present:**

Mehrdad "Mike" Fayyaz, Assistant City Engineer, Acting Chairman  
Tony Irvine, City Surveyor  
Kathy Connor, Parks Supervisor,  
Julie Leonard, Assistant Utilities Services Director  
Tom Terrell, Public Works Maintenance Manager

#### **Staff Present:**

Victor Volpi, Senior Real Estate Officer  
Ed Udvardy, Manager of General Services  
Judy Johnson, Administrative Assistant I  
Diana Alarcon, Assistant Parking Services Manager  
Rafeela Persaud, Word Processing Secretary

#### **Guests Present:**

Keith Moskal  
Gary Glusman  
Josh Horning  
Chuck Brandon  
Phil Quaranto  
Michelle Riced  
Kaizer Talibi

Mehrdad "Mike" Fayyaz called the meeting at 10:03 A.M. and stated that this is a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way. He stated although there were no representatives from the City Attorney's office and the Planning Department, the items discussed would be forwarded to City Attorney's office for review, if necessary.

**ITEM ONE:**                    **APPROVAL OF SEPTEMBER 15, 2005 MINUTES**

**MOTION BY TONY IRVINE TO APPROVE MINUTES. SECONDED BY TOM TERRELL. MOTION PASSED UNANIMOUSLY.**

**ITEM TWO:**                    **VACATION OF EASEMENT**

Victor Volpi introduced item stating Keith Moskal, representing John Lesousky, would like a positive recommendation to vacate the platted 5-foot utility easement in Block 47 of Coral Ridge Galt Addition No. 1, just north of NE 30 Street between Bayview Drive and NE 26 Terrace. Victor Volpi introduced Keith Moskal.

Mr. Moskal explained 40 townhouses are being built on two pieces of properties. Mr. Moskal said there was a utility easement in the backyard where they would like to place swimming pools as part of the project. Mr. Moskal said there were no utilities on the properties. Mehrdad Fayyaz asked about if the easement continued on the either side of the adjacent properties. Tony Irvine said there were no utilities in the alley which was vacated. Victor Volpi said the applicant was asking for the additional platted 5 feet in the back of this property. Mehrdad Fayyaz asked if there were any utilities and/or any future plans in the area. Julie Leonard said no. Tom Terrell asked about letters from other utility companies. Mr. Moskal said there were power lines in the alley on the property adjacent to the applicant's property in the rear. Tony Irvine said the power lines ran parallel to the applicant's property.

Tony Irvine said he would like to have FPL input. Kathy Connor asked about the letters from utility companies. Mehrdad Fayyaz explained letters from the utility companies are part of the vacation process but the approval from the PROW Committee could be contingent upon obtaining letters from utility companies.

**MOTION BY TONY IRVINE TO RECOMMEND VACATION OF THE 5-FOOT UTILITY EASEMENT AS REQUESTED. SECONDED BY TOM TERRELL.**

Discussion followed as to the letters from the utility companies.

**MOTION AMENDED BY TONY IRVINE TO RECOMMEND APPROVAL OF THE VACATION AS REQUESTED, SUBSEQUENT TO DRC AND COMMISSION APPROVAL, AND SUBMITTAL OF LETTERS BY ALL FRANCHISE UTILITIES STATING NO OBJECTION OR RELOCATION OF UTILITIES. SECONDED BY KATHY CONNOR**

**MOTION PASSED UNANIMOUSLY.**

**ITEM THREE:**                    **LICENSE AGREEMENT**

Victor Volpi introduced item stating the Florida Department of Transportation (FDOT) would like to improve the northwest corner of Commercial Boulevard and Bayview Drive as shown in the exhibit (Exhibit B). He stated they will require a license agreement with the City to do so.

There were no representatives for this item.

Tony Irvine said the City has an interest in this item and it should be discussed and was also part of the Commercial Boulevard landscaping. Mike Fayyaz asked if the property would reverse to the property owner who owns the building and if an easement could be obtained on a property not owned by the City. Tony Irvine said the City did not own the land and would need to go to the City Attorney's office for review. Kathy Connor said there was a landscaping project in progress based on this location. Tony Irvine asked about the ownership of the parking lot. Victor Volpi said the parking lot was owned by the City (Lot 18, Block 3), fee simple title.

**MOTION BY KATHY CONNOR TO RECOMMEND APPROVAL CONTINGENT UPON CITY ATTORNEY'S REVIEW. SECONDED BY JULIE LEONARD.**

Tony Irvine asked about the ownership of land.

**MOTION AMENDED BY KATHY CONNOR TO RECOMMEND APPROVAL CONTINGENT UPON REAL ESTATE OFFICE AND CITY ATTORNEY'S REVIEWS. SECONDED BY JULIE LEONARD.**

Diana Alarcon asked about the parking area that was currently metered. Victor Volpi said the area was currently metered and he has a letter from John Hoezle which stated there would be no interference with the metered parking .

**MOTION PASSED UNANIMOUSLY.**

**ITEM FOUR:                      SURPLUS PROPERTY**

Victor Volpi introduced item stating this item was before the Committee twice. He stated on November 18, 2004, the Committee recommended the applicant work with Parks and Recreation Department to get these properties properly landscaped, and on March 17, 2005, the Committee recommended getting the Homeowners Association to accept these properties and create a plan to landscape. Victor Volpi said Chuck Brandon (applicant) has talked to Parks and Recreation Department – they do not have any money to proceed with a project of this nature, and Mr. Brandon has talked to the Homeowners Association and they cannot agree on a landscape plan or on accepting the parcel. He stated Mr. Brandon now wants a recommendation to surplus these properties so he may purchase them for the purpose of taking care of them. Victor Volpi introduced Chuck Brandon.

Mike Fayyaz said if the property is to be surplus, the bids are open to the public. Tony Irvine said he wanted to know, in writing, the position of the Homeowners Association regarding surplusing the property to Mr. Brandon.

Mr. Brandon said the property in question was about ¼ mile long, unoccupied, and full of Brazilian pepper trees, Australian pines, etc., worm termites, and the worst landscaping plan. Mr. Brandon stated he was a member of the Homeowners Association (HOA) for 32 years and the HOA would like for the area to be a common area. Mr. Brandon said Bal Harbor HOA has been maintaining the properties, which cost approximately \$4,000 per year. Mr. Brandon said his objective was to acquire the properties and show the community how valuable the properties are in terms of aesthetics. Mr. Brandon explained his landscaping plans for the properties and explained that he had been in

conference with Kathy Connor and Bob Dunckel in trying to work this out. Mr. Brandon said if the Committee does not take any action, the HOA would make the City take care of the properties which would be very costly.

Mike Fayyaz asked about making this a NCIP-type project where the neighborhood association would apply to the City. Kathy Connor said Mr. Brandon has an immediate problem with the lots not being taken care of by the City, and Parks and Recreation Department could not afford to maintain the properties. Kathy Connor said her Department has agreed for Mr. Brandon to acquire the properties which would be well maintained. Tony Irvine said he did not agree to transfer a neighborhood resource to an individual control when there was an active HOA. Victor Volpi said the HOA was currently paying for the maintenance. Kathy Connor said the HOA did not want to pay for the maintenance.

Discussion followed as to the HOA paying for the maintenance, Mr. Brandon assuming the burden of maintaining the properties, Parks and Recreation Department not being able to maintain the properties, other property owners maintaining their portion of the property, all homeowners deeding the portion of their properties to the HOA to create a common area, obtaining a position statement from the HOA in surplusing the properties to Mr. Brandon, giving the properties to the HOA, the HOA having the City maintain the properties.

**MOTION BY KATHY CONNOR TO RECOMMEND APPROVAL AS REQUESTED, CONTINGENT UPON A LETTER FROM THE HOMEOWNERS ASSOCIATION STATING THEY AGREE WITH THE CITY SURPLUSING THE PROPERTIES TO MR. BRANDON FOR HIM TO MAINTAIN AND LANDSCAPE. SECONDED BY TONY IRVINE.**

Tony Irvine said the concept is great but the City has been derelict in not maintaining the properties and should not be derelict again in recommending an improper transfer.

Kathy Connor argued that the City is being derelict in keeping and maintaining the parcels. Mike Fayyaz said he was in favor of giving the land to someone who would be able to maintain but it would have to be the HOA or a bigger entity, not an individual.

Discussion followed as to transferring the strip to an individual owner, a letter from the HOA disclaiming the properties to Mr. Brandon, and surplusing the properties.

**MOTION AMENDED BY KATHY CONNOR TO SURPLUS THE PROPERTIES, CONTINGENT UPON THE HOMEOWNERS ASSOCIATION STATING IF THEY WANT THE PROPERTIES OR TO DEED PROPERTIES TO MR. BRANDON. SECONDED BY TONY IRVINE.**

Tony Irvine expressed his concern about giving ownership to a private individual which could create problems in the future if said individual left the area. He said the HOA should be aware of other options such as a lease or a license agreement from the City, and then expressed in writing, their decision to the City. Tom Terrell said (1) a letter should be obtained from the HOA and (2) if necessary, surplusing the properties traditionally; and be brought back before the Committee for further discussions. Victor Volpi said the letter should contain language stating (1) the HOA did not want the parcels in their name and (2) the HOA vested the parcels to Mr. Brandon, a private ownership. Tony Irvine said a set of options needed to be presented to HOA.

Tom Terrell asked if the President of the HOA would attend the next meeting as co-applicant. Tony Irvine suggested a special meeting should be scheduled to address this item.

**YEAS: Kathy Connor**

**NAYS: Tony Irvine, Tom Terrell, Julie Leonard, Mike Fayyaz**

**MOTION BY TONY IRVINE TO DIRECT THE REAL ESTATE OFFICER TO ACQUIRE DOCUMENTS FROM THE HOA EXPRESSING THEIR FORMAL POSITION ON THE STRIP OF PROPERTIES, AND TO SCHEDULE A SPECIAL MEETING OF THE PROW COMMITTEE WITH MR. BRANDON AND MEMBERS OF THE ASSOCIATION WHO COULD ATTEND FOR THE SOLE PURPOSE OF DISCUSSING AND SOLVING THIS ISSUE. SECONDED BY TOM TERRELL.**

**YEAS: Tony Irvine, Tom Terrell, Julie Leonard, Mike Fayyaz**

**NAYS: Kathy Connor**

**MOTION PASSED.**

Peter Partington took over as Chair at 10:55 a.m.

**ITEM FIVE:                      ENCROACHMENT AGREEMENT**

Victor Volpi introduced item stating Mr. Quaranto has been to the PROW Committee twice now in an effort to construct an addition to his house. He said in the case of this subdivision (3 blocks), there are walkway reservations with (in some cases) utilities that include water mains. He explained In Court 1, the reservation is gone (replatted), in Court 2, the Committee recommended to vacate and retain an easement, and in this case, Court 3, it is a walkway and easement that the Committee recommended to vacate entirely, but only after the water main is moved. He said now Mr. Quaranto requests he is allowed to construct his addition by an agreement between himself and the City. He said the water meter was 15 feet away from the new construction. Victor Volpi introduced Kaizer Talibi, Architect for Phil Quaranto.

Mr. Talibi explained the addition was along the line of the existing building and the water meter was 15 feet away, and not in the way of City's utilities. Mr. Talibi said he would like to get permission to build the addition. Peter Partington asked about the walkway reservation, and any prohibitions for building the addition.

Peter Partington requested clarification as to why Mr. Talibi needed an agreement. Mr. Talibi said the City was asking for an agreement. Victor Volpi explained it was recommended by the PROW Committee to vacate the entire walkway reservation when the water mains would be relocated in 2011. Peter Partington said the existence of the easement was triggering a Building and Zoning setback requirement. Tony Irvine said the property line was along the west edge of the 7-1/2 dedicated walkway and needed to be addressed by the Board of Adjustment.

Discussion followed as to this issue being a Board of Adjustment issue and/or Building and Zoning Department, the addition being built on the applicant's property, easement being vacated after approximately six years, the process of vacating the walkway reservation and retaining an easement, the difference between the walkway reservation and a right-of-way.

Tony Irvine explained that there was no easement, it was a walkway dedication and one option, with Utilities Department's approval, would be to vacate the walkway dedication and retain a utility easement, then the property line would be moved and the applicant would be able to build the addition to the house.

Peter Partington explained that there were two possibilities: 1) to get a variance on the setback requirement from the Board of Adjustment; or (2) ask the PROW Committee for a positive recommendation to be in favor of applicant vacating the walkway reservation with the City retaining a utility easement in the area, and applicant could then move forward with the vacation process.

Mr. Quaranto said the ordeal for a little piece of land was very frustrating and he was ready to sell the house. Mr. Quaranto said there was no walkway and he was being prevented from adding 3 feet to his house.

Discussion followed as to the costs of relocating the water main and the resurfacing of the streets that was recently done.

Peter Partington said the applicant has two options (1) to go before the Board of Adjustment for a variance, the PROW Committee sees no reason why the addition should not be allowed, or (2) to recommend a vacation of the walkway dedication subject to retention of a utility easement.

**MOTION BY PETER PARTINGTON FOR THE PROW COMMITTEE TO SUPPORT THE PROPOSED EXTENSION AND SEES NO IMPACT ON THE CITY'S WATER MAIN; AND THE PROW COMMITTEE SUPPORTS THE IDEA OF A VACATION OF A WALKWAY DEDICATION, SUBJECT TO THE RETENTION OF A UTILITY EASEMENT. SECONDED BY TONY IRVINE.**

**MOTION PASSED UNANIMOUSLY.**

**ITEM SIX:                      AGREEMENT TO PLACE PRIVATE DRAINAGE SYSTEM IN PLATTED ALLEY – HARBORDALE DEVELOPMENT LLC**

Victor Volpi introduced item stating Brad Hodger would like a positive recommendation to allow them to construct a drainage system in a platted alley. He explained they intend to construct townhouses on either side of the alley and would like to use one drainage system which requires a connection under the alley. Victor Volpi introduced Josh Horning, Engineer for Owner.

Mr. Horning said they would like to construct an interconnect through the alley due to a criteria set by Broward County EPD which stated that any residential property with more than 10 parking spaces needed to be reviewed, which would require a more extensive drainage calculations to keep flood waters down. Mr. Horning said two drainage wells would have to be installed at each property if the interconnection was not allowed. Peter Partington clarified that the applicant was looking to place a private drain system under public right-of-way. Mr. Horning said he was sent to the PROW Committee by Tim Welch. Tony Irvine said typically, private drainage systems are not allowed in public rights-of-way with the exception of a fully paved swale where permission is given to drain the swale, which would help improve the right-of-way. He said this is different because it is an interconnect and French drain. Tom Terrell said the exfiltration system would tie into middle of the alley which was City property and would present problems in the future.

Mr. Horning explained the exfiltration system in the alley was separate and would be isolated from the private system. Mr. Horning said Tim Welch suggested that the exfiltration system be placed in order to drain the alley. Peter Partington clarified that the applicant was before the PROW Committee to request a private storm line in the alley. Mr. Horning said there would be two private systems on either side of the alley that would need to be connected in order to alleviate drainage costs and the construction of the two projects. Peter Partington asked about the drainage of the two sites. Mr. Horning said it would be a self-sufficient system. Tom Terrell said the City did not need drainage in the alley. Peter Partington said he would not support the private line under the public right-of-way. Discussion followed regarding the placement of the private drainage system under public property and the responsibility of its maintenance. Peter Partington said one solution was for the sites to drain separately.

**MOTION BY TONY IRVINE TO RECOMMEND APPROVAL OF THE ENGINEERING PERMIT TO ALLOW THE TWO DRAINAGE SYSTEMS TO CONNECT UNDER THE ALLEY. SECONDED BY KATHY CONNOR.**

**Yeas: Kathy Connor**

**Nays: Peter Partington, Tom Terrell, Tony Irvine, Julie Leonard**

**MOTION FAILED.**

**ITEM SEVEN:                      DISPOSITION**

Victor Volpi introduced item stating at its last meeting, the Property and Right-of-Way (PROW) Committee deferred this item until further title work could be done. He stated the Real Estate Office now reports that the property east of the applicant's is also included in the disposition as it is described on the same plat as one parcel (Tract A). Victor Volpi stated that once the applicant takes the easement back, the City will no longer have any parking or control of the area.

Gary Glusman, property owner representative, said the property was purchased 3-4 months ago, and currently, there was a Denny's restaurant with a 14 year lease on the property. He said if the site was ever re-developed for a different use in the future, having an easement on the property would be restrictive. Mr. Glusman said his client was advised by his attorney to pay \$10,900.00 to the City of Fort Lauderdale to release the easement in order to close the property. Peter Partington asked if Mr. Glusman wanted to vacate the easement. Mr. Glusman said yes.

Victor Volpi said an easement was accepted from Mr. and Mrs. Johnson in 1963 and the easement deed had stated with the acceptance of \$10,900, the easement would be given back to the successors/heirs/assigns.

Diana Alarcon said there was no metered parking in the area and does not like to give up easement, but in this case, there was no choice.

Tom Terrell said there was one parcel and one easement. Peter Partington said the applicant now has the right to block the parking area for thru traffic and asked applicant to inform the City of their intentions of such. Tony Irvine clarified that one of the concerns was that the parking lot would be split in two but the applicant now owns the entire strip.

Peter Partington said there would be no motion for this item since it was already approved. He said the Committee has looked at the documents and are satisfied.

Meeting adjourned at 11:30 a.m.